

# UNIT 67 ADMINISTERING FINANCING TERMS

(Formerly Unit 69)

\_\_\_\_\_ has satisfactorily completed on-the-job training in the Part or Parts of this Unit specified below.

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## Certification for Part A: Commercial Financing

<b>Duty</b>	Approve the amount to pay the contractor under progress payments clause; determine the need to adjust progress payment or liquidation rates.
<b>Conditions</b>	Given a contract with a commercial financing clause and a request for payment under that clause.
<b>Overall Standard(s)</b>	Only pay amounts properly due the contractor under the clause. Avoid contractor indebtedness to the Government at the end of contract performance. Mitigate risks to performance of both the Government and the contractor from cash flow problems. Mitigate the Government's risk of providing financing payments when the contractor is not likely to perform for other reasons.

<b>Evaluator</b>	Name	_____
	Title	_____
	Date	_____

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## Certification for Part B: Progress Payments

<b>Duty</b>	Approve the amount to pay the contractor under progress payments clause; determine the need to adjust progress payment or liquidation rates.
<b>Conditions</b>	Given a contract with a progress payments clause and a request for progress payments.
<b>Overall Standard(s)</b>	Only pay amounts properly due the contractor under the progress payment clause. Avoid contractor indebtedness to the Government at the end of contract performance. Mitigate risks to performance of both the Government and the contractor from cash flow problems. Mitigate the Government's risk of providing progress payments when the contractor is not likely to perform for other reasons.

# UNIT 67 ADMINISTERING FINANCING TERMS

(Formerly Unit 69)

<b>Evaluator</b>	Name	_____
	Title	_____
	Date	_____

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## Certification for Part C: Advance Payments

**Duty** Reserved.

**Conditions**

**Overall  
Standard(s)**

<b>Evaluator</b>	Name	_____
	Title	_____
	Date	_____

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## Certification for Part D: Performance-Based Payments

**Duty** Approve the amount to pay; determine the need to adjust.

**Conditions** Given a contract with a performance-based payments clause and a request for payments under that clause.

**Overall  
Standard(s)** Only pay amounts properly due the contractor under the clause. Avoid contractor indebtedness to the Government at the end of contract performance. Mitigate risks to performance of both the Government and the contractor from cash flow problems. Mitigate the Government's risk of providing payments when the contractor is not likely to perform for other reasons.

<b>Evaluator</b>	Name	_____
	Title	_____
	Date	_____

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# UNIT 67 ADMINISTERING FINANCING TERMS

DOCUMENTATION OF OJT ASSIGNMENT(S)
<b>Description of Assignment:</b>
<b>Evaluation:</b>
<b>Completion Date:</b>

*As needed, insert additional pages to record OJT assignments.*

# UNIT 67 ADMINISTERING FINANCING TERMS

## Policies

<i>FAR</i>	<i>Agency Suppl.</i>	<i>Subject</i>
32.104		Providing contract financing.
32.105		Uses of contract financing.
32.2		Commercial item purchase financing.
32.408 through 32.411		Administering advance payments.
32.501		Progress payment rates (customary and unusual); consideration for progress payments.
32.503		Postaward matters with respect to progress payments based on costs.
32.504		Progress payments to subcontractors.
42.703(b)		Use of billing rates in determining progress payments.
52.232 -12		Advance payments.
52.232-16		Progress payments.
52.232-29 through 52.232-31		Commercial item financing clauses.

## Other KSA's

1. Business Finance and Accounting.

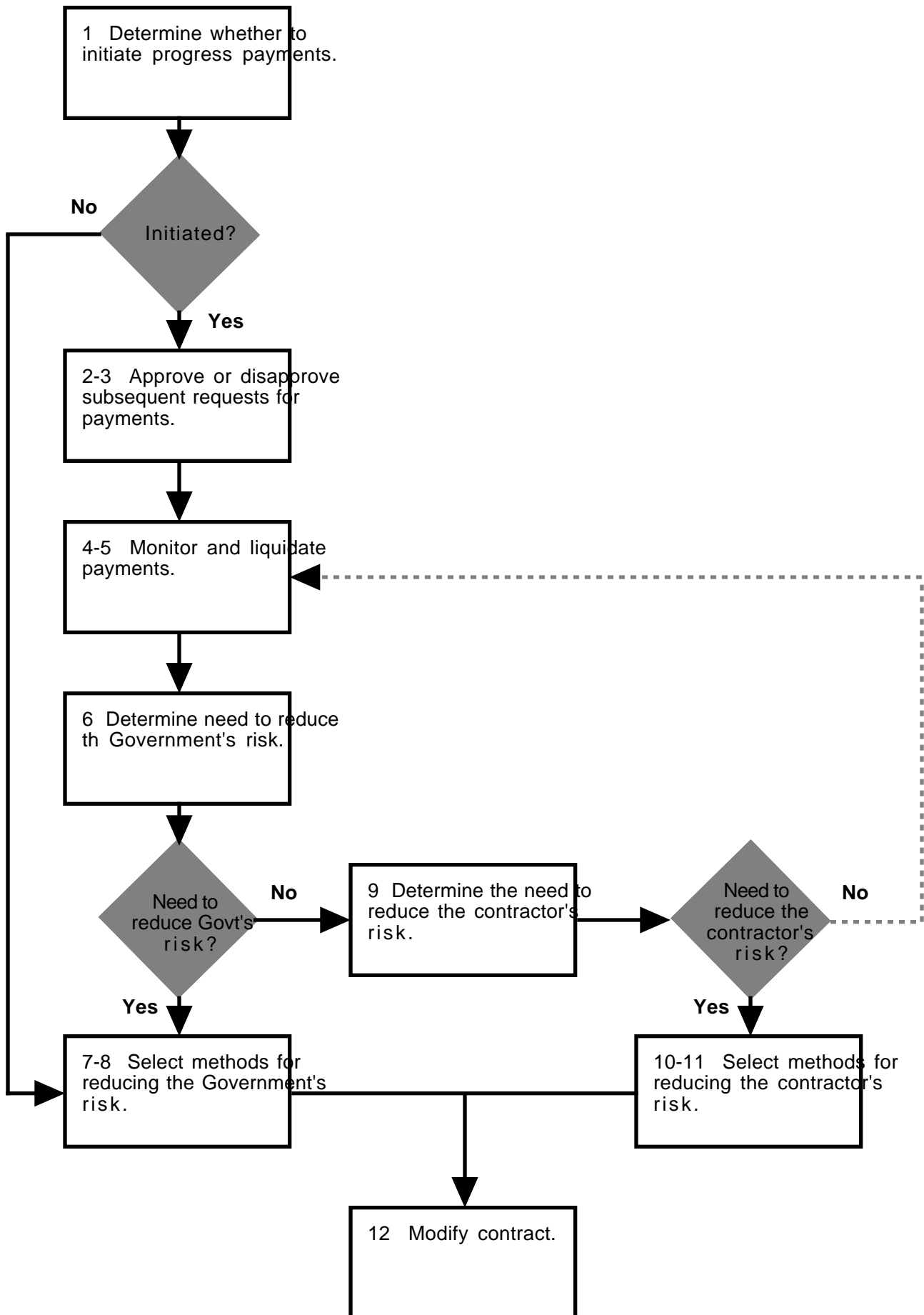
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## Other Policies and References (Annotate As Necessary):

# UNIT 67 ADMINISTERING FINANCING TERMS

## *Part A: Commercial Financing Payments*

Tasks	Related Standards
<p>1. Monitor securities provided by contractors (per Unit 64).</p> <p>Subtasks:</p> <ul style="list-style-type: none"><li>• Determine the need for additional security.</li><li>• If necessary, require the contractor to furnish additional security.</li><li>• Take action if the contractor fails to provide the additional security (e.g., require submission of alternative forms of security).</li></ul>	<p>A1. The value of the security always equals or exceeds the amount of unliquidated financing.</p> <p>Correctly identifies alternative remedies and determines the best remedy given the circumstances when the contractor fails to furnish the necessary security.</p> <p>Alternatives:</p> <ul style="list-style-type: none"><li>• Collect or liquidate such security that has been provided</li><li>• Suspend further payments to the Contractor</li><li>• Require the Contractor to repay the amount of unliquidated financing payments as the Contracting Officer at his sole discretion deems repayable.</li><li>• Some combination of the above.</li></ul>
<p>2. Review requests for payments under the financing clause.</p>	<p>A2. Approve only if:</p> <ul style="list-style-type: none"><li>• Prior to any performance of work under the contract, advance payments do NOT total more than 15% of the contract price.</li><li>• Amounts are properly calculated and otherwise due.</li><li>• The items or services will be delivered or performed in accordance with all contract terms and conditions.</li><li>• There has been no impairment or diminution of the Government's security.</li><li>• Payments are properly liquidated.</li></ul>



# UNIT 67 ADMINISTERING FINANCING TERMS

## Part B: Progress Payments

Tasks	Related Standards
<p>1. Determine whether to initiate progress payments.</p> <ul style="list-style-type: none"> <li>Determine whether to audit or otherwise investigate the contractor's accounting system and financial condition.</li> <li>Initiate audit and review audit findings (per Unit 39) or conduct factfinding.</li> </ul>	<p>B1. Do not audit or investigate the request if an audit within the last year or other data in the acquisition history provide sufficient grounds for believing that the firm is:</p> <ul style="list-style-type: none"> <li>Reliable, competent and capable of satisfactory performance.</li> <li>Possessed of an adequate accounting system and controls.</li> <li>In sound financial condition.</li> </ul> <p>Otherwise, only begin progress payments if an audit or investigation confirm that:</p> <ul style="list-style-type: none"> <li>The contractor will be capable of liquidating any progress payments or that the Government is sufficiently protected against loss by the terms and conditions of the contract, and</li> <li>The contractor's accounting system and controls are adequate for proper administration of the payments.</li> </ul>
<p>2. If the contract did not call for progress payments, determine whether to modify the contract.</p> <ul style="list-style-type: none"> <li>Determine whether the contractor's request for financing meets the tests of Unit 20.</li> <li>Prepare a negotiation position on consideration for adding progress payments.</li> <li>Negotiate and execute the contract modification.</li> </ul>	<p>A2. Correctly apply the criteria in FAR 32.501-4 to establish a prenegotiation position on the amount of consideration and accurately calculate the imputed financial costs of the equivalent working capital.</p>
<p>3. Approve or disapprove requests for progress payments (i.e., SF 1443) under the Progress Payment clause.</p> <ul style="list-style-type: none"> <li>If the contractor's request does not conform to 32.503-1, obtain correction.</li> <li>Determine whether to audit the request.</li> </ul>	<p>A3. Approve only that amount allowed under the contract's terms and conditions. The total amount of progress payments approved may not exceed 80% of the total contract price.</p> <p>Request an audit when data from the acquisition history or performance monitoring provides reason to</p> <ul style="list-style-type: none"> <li>Question the reliability or accuracy of the contractor's certification.</li> <li>Believe that the contractor will experience a loss on the contract.</li> </ul>

# UNIT 67 ADMINISTERING FINANCING TERMS

## Part B: Progress Payments

Tasks	Related Standards
<p>4. Monitor the Government's property rights, progress payments, and liquidation rates (per Unit 56), including the periodic conduct of postpayment reviews or audits.</p>	<p>A4. The extent and frequency of monitoring should be greater for contractors which are:</p> <ul style="list-style-type: none"> <li>• In weak or doubtful financial condition relative to progress payments outstanding or to be outstanding.</li> <li>• Run by managers of doubtful capability.</li> <li>• Weak in terms of accounting controls.</li> <li>• Experiencing substantial difficulties in performance.</li> </ul> <p>Conduct postpayment reviews or audits as prescribed in FAR 32.503-3.</p>
<p>5. Liquidate progress payments through deductions in payments to the contractor (per Unit 65).</p>	<p>A5. Deduct the unliquidated amount, or 80% of the amount invoiced, whichever is less.</p>
<p>6. Determine the need to reduce the Government's risk.</p> <ul style="list-style-type: none"> <li>• The contractor has failed to comply with a material requirements of the contract, such as the requirement in FAR 52.232-16 to: <ul style="list-style-type: none"> <li>- Maintain an adequate accounting system and controls,</li> <li>- Promptly furnish requested reports, certificates, financial statements and other pertinent information,</li> <li>- Give the Government reasonable opportunity to examine and verify the Contractor's books, records, and accounts, or</li> <li>- Provide unencumbered title to property per paragraph (d) of the clause.</li> </ul> </li> <li>• Performance is endangered by the contractor's failure to make progress or unsatisfactory financial condition.</li> <li>• Inventory allocated to the contract substantially exceeds reasonable requirements.</li> <li>• The contractor is delinquent in payment of the costs of performing this contract in the ordinary course of business.</li> <li>• Unliquidated progress payments exceed the fair value of the work accomplished on the undelivered portion of the contract.</li> <li>• The sum of the total costs incurred under the contract plus the estimated costs to complete the performance are likely to exceed the contract price.</li> <li>• Unliquidated progress payments exceed the contractual limitation of 80% of the contractor's cumulative total costs.</li> <li>• There is substantial evidence that a requested payment is based on fraud.</li> </ul>	<p>A6. Make determinations as prescribed in FAR 32.503-6 , 32.503-12, and 32.503-14(c).</p>



# UNIT 67 ADMINISTERING FINANCING TERMS

## Part B: Progress Payments

### Tasks

### Related Standards

#### *Suspending Or Reducing Progress Payments Upon A Finding Of Fraud*

✎ FAR 32.006 establishes policies for suspending or reducing progress payments upon a finding of fraud. The policies apply to all agencies but NASA and Coast Guard.

Under FAR 32.006, the agency head is responsible for determining whether there is substantial evidence that a requested payment is based on fraud (based on a report from the Inspector General or other agency official responsible for coordinating the administration of criminal, civil, administrative, and contractual remedies resulting from investigations of procurement-related fraud or corruption). If the agency head determines that evidence of fraud is substantial, FAR 32.006 includes criteria for determining whether to reduce progress payments and by how much. [§32.006, FAC 90-33, Case 94-765, CSW Unit 69, Task A6]

FAR 32.006 also establishes a due process procedure for:

- Notifying the contractor that the agency is considering a reduction or suspension of payments for fraud, and
- Considering any rebuttal by the contractor.

<p>7. Contact the contractor about need and methods to reduce the Government's risk.</p> <ul style="list-style-type: none"><li>• Notify the contractor that the agency is considering a reduction or suspension of payments for fraud.</li><li>• Consider any rebuttal by the contractor.</li></ul>	<p>A7. Allow the contractor to present his/her view and any supporting facts. Attempt to reach agreement with contractor on a contract modification.</p>
<p>8. Select and implement a method or methods of reducing the Government's risk.</p> <p>Alternatives:</p> <ul style="list-style-type: none"><li>• Suspending progress payments.</li><li>• Reducing progress payments.</li><li>• Increasing the liquidation rate (amount withheld from each payment for deliverables to pay the Government back for the "loan" of progress payments).</li><li>• Adding protective terms to the contract, such as:<ul style="list-style-type: none"><li>- An agreement from the contractor to pay suppliers and avoid further delinquencies in such payments (but only when the contractor's financial condition is sound).</li><li>- Personal or corporate guarantees.</li><li>- Subordinations or standbys of indebtedness.</li><li>- Special bank accounts.</li><li>- One or more of the covenants prescribed for advance payments under paragraph (p) of the clause at 52.232-12.</li></ul></li></ul>	<p>A8. Select and implement a method as prescribed in FAR 32.503-6.</p> <p>When the contractor's total costs are likely to exceed the price of the contract, reduce progress payments by accurately computing a loss ratio factor and adjusting future progress payments to exclude the element of loss.</p>

# UNIT 67 ADMINISTERING FINANCING TERMS

## *Part B: Progress Payments*

### Tasks

### Related Standards

<p>9. Determine the need to reduce the Contractor's risk.</p> <ul style="list-style-type: none"><li>• Contractor's cash flow is not sufficient to sustain contract performance, even with normal progress and liquidation rates.</li><li>• The government is otherwise protected against loss.</li><li>• The contractor is otherwise capable and competent to perform (per Unit 47).</li></ul>	
<p>10. Select method of further reducing contractor's risk.</p> <p>Alternatives:</p> <ul style="list-style-type: none"><li>• Decreasing the liquidation rate on payments for initial deliverables.</li><li>• Granting an unusual progress payment rate (FAR 32.501-2).</li></ul>	<p>A10. Reduce the liquidation rate when the conditions in FAR 32.503-9 apply. Establish the alternate liquidation rate by correctly applying the factors at FAR 32.503-10.</p>
<p>11. Meet with contractor to discuss the need for reducing the contractor's risk and the recommended method.</p>	<p>A11. Allow the contractor to present his/her view and any supporting facts. Attempt to reach agreement with contractor on a contract modification.</p>
<p>12. Issue a contract modification for any change (per Unit 76).</p>	

# UNIT 67 ADMINISTERING FINANCING TERMS

*Part C: Advance Payments*

**Tasks**

**Related Standards**


# UNIT 67 ADMINISTERING FINANCING TERMS

## *Part D: Performance-Based Payments*

### **Tasks**

### **Related Standards**

#### *Administering Progress Payments Based On Performance (NEW)*

 The following are tasks related to administering such progress payments [§33.10, FAC 90-33, Case 94-764].

1. Identify intervals (i.e., not more frequently than monthly), the form, and the manner in which contractors shall request performance based financing payments.
2. Review contractor requests for performance-based finance payments. Do not pay unless the specified event or performance criterion has been successfully accomplished in accordance with the contract. If necessary, require the contractor to substantiate the event or performance criterion which has been or is represented as being payable. Accurately determine the amount to be paid.
3. Determine whether Government delay is responsible when the contractor falls short of an event or criterion. If there is a Government-caused delay, consider renegotiating the performance-based payment schedule to facilitate contractor billings for any successfully accomplished portions of the delayed event or criterion.
4. Review information from performance monitoring to ensure that Government title is not compromised by other encumbrances (but ordinarily rely upon the contractor's certification contained in the payment request). If Government title has been compromised, initiate actions to protect the Government's interests (e.g., require additional protective provisions; consider suspending or reducing performance; consult legal counsel).
5. Determine whether to suspend or reduce performance based payments, as provided by §52.232-32(e).
6. Determine whether to demand repayment of performance based financing in the event of loss, theft, destruction, or damage to property per §52.232-32(g).
7. If the contract is modified, adjust the performance-based payment schedule.
8. Verify proper liquidation of performance-based finance payments.